

Following are the major comments on the draft Missouri DNR regs:

#### General Provisions

- 10 CSR 80-12.010 (1)(A) allows use of standards and techniques by individual facilities other than those outlined in the rule, upon demonstration to the DNR. This provision is inconsistent with the federal program; per the WIIN Act, EPA makes the determination that the technical standards established pursuant to a State permit program are at least as protective.

#### Location Restrictions

- (4)(B)(9) 4(B)(9) allows for a variance to the following location standards: fault, seismic and unstable.

#### Liner

- 10 CSR 80-11.010 (10)(A) and other parts of the regulations addressing liners allows use of composite or clay liners for new and existing units; use of clay liners is inconsistent with the August 2018 court decision.

#### Air Quality

- The draft rule excludes the requirement for the fugitive dust control plan to contain a log of citizens' complaints. See 10 CSR 80-12.012(B); overall is not as specific as 257.80(a)

#### GW Monitoring

The following distinctions are potentially less protective than the federal program:

- Provisions allowing the state to allow an alternative frequency to monitor groundwater on bases not included in the federal rule, including the resource value of the aquifer (less specific than the allowance in 40 CFR 257.94 the CCR rule (lithology, hydraulic conductivity, groundwater flow rates.) See 10 CSR 80-11.010(D)(4)
- Provision that would allow the department to waive corrective action if the impacted groundwater is not reasonably expected to be a source of drinking water or no migration of contaminants is expected "that may pose a threat to human health and the environment." See 10 CSR 80-11.010(B)(1)(B)
- Provision that would allow the department to establish an alternative groundwater monitoring frequency during closure and post-closure care in consideration of factors that include resource value of the aquifer. See 10 CSR 80-11.011(D)(4)
- Provision that allows groundwater monitoring wells to be installed "at the relevant **point of compliance** established by the department" instead of the unit boundary, contrary to the

requirements of 40 CFR 257.91 that the groundwater monitoring system accurately represent the quality of groundwater passing the waste boundary of the CCR unit. See 10 CSR 80-12.010(A)

- The draft rule lists considerations to establish the potential for migration from the unit, which is a provision that does not currently exist in the federal program. It may be proposed in conjunction with other provisions that do not exist in the federal program, such as establishing alternative points of compliance, suspending groundwater monitoring, or waiving corrective action. In any case, it does not include consideration of hydraulic conductivity, which is required in the federal rule for other types of determinations about groundwater movement. See 10 CSR 80-12.010(A)(3)
- The draft rule would establish a standard for the groundwater monitoring system, “capable of detecting significant amounts of liquids generated by the unit,” which is different than the standard in the federal rule, to provide an accurate representation of groundwater quality. See 10 CSR 80-12.010(A)(5)(B)
- One provision would allow the department to suspend groundwater monitoring requirements if there is no potential risk to human health or the environment during the active life of the unit and during post-closure care. In making this determination, the department may consider any activity or use limitations placed on the facility property or at an off-site affected area. This is not a basis to suspend monitoring in the federal rule, nor are activity or use limitations viewed as an appropriate method to address long-term risks. See 10 CSR 80-12.010(B)(5)
- The draft rule has substituted “protective of human health and the environment” for “at least as effective as any other approach in this section” as a performance standard for a control chart statistical test. Similar provisions in the draft substitute ““protective of human health and the environment” for specific performance standards established in the federal rule. EPA cannot reasonably determine whether or not the final requirement established by the department would be as protective as the federal requirements. See 10 CSR 80-12.010(E)(3), (E)(4) and (E)(5).
- The draft amended the requirement in §257.97(b)(3), for remedies to “Control the source(s) of releases so as to reduce or eliminate, to the maximum extent feasible, further releases of constituents...into the environment.” The draft rule adds the phrase “...that may pose a threat to human health or the environment.” See 10 CSR 80-12.011(B)(4)(C)
- The draft allows consideration of the practicable capability of the owner / operator in developing a schedule to implement the selected remedy. See 10 CSR 80-12.011 (B)(6)(G). The term practicable may allow costs to be considered, which is not allowed by the federal rule.
- The proposal allows consideration of the risks of explosion or fire when determining whether or not interim measures are necessary. It is unclear how this provision would be utilized. See 10 CSR 80-12.011(C)(1)(C)(VII)
- Th proposal allows the department to determine remediation complete when GWPS have been met “**following a risk assessment**, or at a **compliance point** otherwise established by the department.” The federal rule requires the GWPS to be met at the unit boundary and at all points within the contaminant plume for corrective action to be determined complete. See 10 CSR 80-12.011(C)(2)(B)

#### Closure

- No state corollary to 257.101 standards for closure of unlined impoundments was found.

- (14)(a)(9) allows the use of an alternative final cover system provided the o/o demonstrate to the department that the alternative design will be at least equivalent to the final cover system described in this section.

#### Post-Closure Care

- 15(B)(1) allows for less than 30- year closure; no corollary in Part 257

#### Publicly Accessible Internet Requirements

- No state corollary to 257.107 for maintaining a publicly accessible internet site for each facility.